

106TH CONGRESS
1ST SESSION

H. R. 795

IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 1999

Received; read twice and referred to the Committee on Indian Affairs

AN ACT

To provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Chippewa Cree Tribe
3 of The Rocky Boy’s Reservation Indian Reserved Water
4 Rights Settlement and Water Supply Enhancement Act of
5 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) in fulfillment of its trust responsibility to
9 Indian tribes and to promote tribal sovereignty and
10 economic self-sufficiency, it is the policy of the
11 United States to settle the water rights claims of the
12 tribes without lengthy and costly litigation;

13 (2) the Rocky Boy’s Reservation was estab-
14 lished as a homeland for the Chippewa Cree Tribe;

15 (3) adequate water for the Chippewa Cree
16 Tribe of the Rocky Boy’s Reservation is important
17 to a permanent, sustainable, and sovereign homeland
18 for the Tribe and its members;

19 (4) the sovereignty of the Chippewa Cree Tribe
20 and the economy of the Reservation depend on the
21 development of the water resources of the Reserva-
22 tion;

23 (5) the planning, design, and construction of
24 the facilities needed to utilize water supplies effec-
25 tively are necessary to the development of a viable

1 Reservation economy and to implementation of the
2 Chippewa Cree-Montana Water Rights Compact;

3 (6) the Rocky Boy's Reservation is located in a
4 water-short area of Montana and it is appropriate
5 that the Act provide funding for the development of
6 additional water supplies, including domestic water,
7 to meet the needs of the Chippewa Cree Tribe;

8 (7) proceedings to determine the full extent of
9 the water rights of the Chippewa Cree Tribe are cur-
10 rently pending before the Montana Water Court as
11 a part of the case "In the Matter of the Adjudica-
12 tion of All Rights to the Use of Water, Both Surface
13 and Underground, within the State of Montana";

14 (8) recognizing that final resolution of the gen-
15 eral stream adjudication will take many years and
16 entail great expense to all parties, prolong uncer-
17 tainty as to the availability of water supplies, and
18 seriously impair the long-term economic planning
19 and development of all parties, the Chippewa Cree
20 Tribe and the State of Montana entered into the
21 Compact on April 14, 1997; and

22 (9) the allocation of water resources from the
23 Tiber Reservoir to the Chippewa Cree Tribe under
24 this Act is uniquely suited to the geographic, social,

1 and economic characteristics of the area and situa-
2 tion involved.

3 **SEC. 3. PURPOSES.**

4 The purposes of this Act are as follows:

5 (1) To achieve a fair, equitable, and final settle-
6 ment of all claims to water rights in the State of
7 Montana for—

8 (A) the Chippewa Cree Tribe; and

9 (B) the United States for the benefit of
10 the Chippewa Cree Tribe.

11 (2) To approve, ratify, and confirm, as modified
12 in this Act, the Chippewa Cree-Montana Water
13 Rights Compact entered into by the Chippewa Cree
14 Tribe of the Rocky Boy's Reservation and the State
15 of Montana on April 14, 1997, and to provide fund-
16 ing and other authorization necessary for the imple-
17 mentation of the Compact.

18 (3) To authorize the Secretary of the Interior
19 to execute and implement the Compact referred to in
20 paragraph (2) and to take such other actions as are
21 necessary to implement the Compact in a manner
22 consistent with this Act.

23 (4) To authorize Federal feasibility studies de-
24 signed to identify and analyze potential mechanisms
25 to enhance, through conservation or otherwise, water

1 supplies in north central Montana, including mecha-
2 nisms to import domestic water supplies for the fu-
3 ture growth of the Rocky Boy's Indian Reservation.

4 (5) To authorize certain projects on the Rocky
5 Boy's Indian Reservation, Montana, in order to im-
6 plement the Compact.

7 (6) To authorize certain modifications to the
8 purposes and operation of the Bureau of Reclama-
9 tion's Tiber Dam and Lake Elwell on the Marias
10 River in Montana in order to provide the Tribe with
11 an allocation of water from Tiber Reservoir.

12 (7) To authorize the appropriation of funds
13 necessary for the implementation of the Compact.

14 **SEC. 4. DEFINITIONS.**

15 In this Act:

16 (1) ACT.—The term “Act” means the “Chip-
17 pewa Cree Tribe of The Rocky Boy's Reservation In-
18 dian Reserved Water Rights Settlement and Water
19 Supply Enhancement Act of 1999”.

20 (2) COMPACT.—The term “Compact” means
21 the water rights compact between the Chippewa
22 Cree Tribe of the Rocky Boy's Reservation and the
23 State of Montana contained in section 85–20–601 of
24 the Montana Code Annotated (1997).

1 (3) FINAL.—The term “final” with reference to
2 approval of the decree in section 101(b) means com-
3 pletion of any direct appeal to the Montana Supreme
4 Court of a final decree by the Water Court pursuant
5 to section 85–2–235 of the Montana Code Anno-
6 tated (1997), or to the Federal Court of Appeals, in-
7 cluding the expiration of the time in which a petition
8 for certiorari may be filed in the United States Su-
9 preme Court, denial of such a petition, or the
10 issuance of the Supreme Court’s mandate, whichever
11 occurs last.

12 (4) FUND.—The term “Fund” means the Chip-
13 pewa Cree Indian Reserved Water Rights Settlement
14 Fund established under section 104.

15 (5) INDIAN TRIBE.—The term “Indian tribe”
16 has the meaning given that term in section 101(2)
17 of the Federally Recognized Indian Tribe List Act of
18 1994 (25 U.S.C. 479a(2)).

19 (6) MR&I FEASIBILITY STUDY.—The term
20 “MR&I feasibility study” means a municipal, rural,
21 and industrial, domestic, and incidental drought re-
22 lief feasibility study described in section 202.

23 (7) MISSOURI RIVER SYSTEM.—The term “Mis-
24 souri River System” means the mainstem of the

1 Missouri River and its tributaries, including the
2 Marias River.

3 (8) RECLAMATION LAW.—The term “Reclama-
4 tion Law” has the meaning given the term “rec-
5 lamation law” in section 4 of the Act of December
6 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

7 (9) ROCKY BOY’S RESERVATION; RESERVA-
8 TION.—The term “Rocky Boy’s Reservation” or
9 “Reservation” means the Rocky Boy’s Reservation
10 of the Chippewa Cree Tribe in Montana.

11 (10) SECRETARY.—The term “Secretary”
12 means the Secretary of the Interior, or his or her
13 duly authorized representative.

14 (11) TOWE PONDS.—The term “Towe Ponds”
15 means the reservoir or reservoirs referred to as
16 “Stoneman Reservoir” in the Compact.

17 (12) TRIBAL COMPACT ADMINISTRATION.—The
18 term “Tribal Compact Administration” means the
19 activities assumed by the Tribe for implementation
20 of the Compact as set forth in Article IV of the
21 Compact.

22 (13) TRIBAL WATER CODE.—The term “tribal
23 water code” means a water code adopted by the
24 Tribe, as provided in the Compact.

25 (14) TRIBAL WATER RIGHT.—

1 (A) IN GENERAL.—The term “Tribal
2 Water Right” means the water right set forth
3 in section 85–20–601 of the Montana Code An-
4 notated (1997) and includes the water alloca-
5 tion set forth in title II of this Act.

6 (B) RULE OF CONSTRUCTION.—The defini-
7 tion of the term “Tribal Water Right” under
8 this paragraph and the treatment of that right
9 under this Act shall not be construed or inter-
10 preted as a precedent for the litigation of re-
11 served water rights or the interpretation or ad-
12 ministration of future compacts between the
13 United States and the State of Montana or any
14 other State.

15 (15) TRIBE.—The term “Tribe” means the
16 Chippewa Cree Tribe of the Rocky Boy’s Reserva-
17 tion and all officers, agents, and departments there-
18 of.

19 (16) WATER DEVELOPMENT.—The term “water
20 development” includes all activities that involve the
21 use of water or modification of water courses or
22 water bodies in any way.

23 **SEC. 5. MISCELLANEOUS PROVISIONS.**

24 (a) NONEXERCISE OF TRIBE’S RIGHTS.—Pursuant
25 to Tribal Resolution No. 40–98, and in exchange for bene-

1 fits under this Act, the Tribe shall not exercise the rights
2 set forth in Article VII.A.3 of the Compact, except that
3 in the event that the approval, ratification, and confirma-
4 tion of the Compact by the United States becomes null
5 and void under section 101(b), the Tribe shall have the
6 right to exercise the rights set forth in Article VII.A.3 of
7 the Compact.

8 (b) WAIVER OF SOVEREIGN IMMUNITY.—Except to
9 the extent provided in subsections (a), (b), and (c) of
10 section 208 of the Department of Justice Appropriation
11 Act, 1953 (43 U.S.C. 666), nothing in this Act may be
12 construed to waive the sovereign immunity of the United
13 States.

14 (c) TRIBAL RELEASE OF CLAIMS AGAINST THE
15 UNITED STATES.—

16 (1) IN GENERAL.—Pursuant to Tribal Resolu-
17 tion No. 40–98, and in exchange for benefits under
18 this Act, the Tribe shall, on the date of enactment
19 of this Act, execute a waiver and release of the
20 claims described in paragraph (2) against the United
21 States, the validity of which are not recognized by
22 the United States, except that—

23 (A) the waiver and release of claims shall
24 not become effective until the appropriation of
25 the funds authorized in section 105, the water

1 allocation in section 201, and the appropriation
2 of funds for the MR&I feasibility study author-
3 ized in section 204 have been completed and the
4 decree has become final in accordance with the
5 requirements of section 101(b); and

6 (B) in the event that the approval, ratifica-
7 tion, and confirmation of the Compact by the
8 United States becomes null and void under sec-
9 tion 101(b), the waiver and release of claims
10 shall become null and void.

11 (2) CLAIMS DESCRIBED.—The claims referred
12 to in paragraph (1) are as follows:

13 (A) Any and all claims to water rights (in-
14 cluding water rights in surface water, ground
15 water, and effluent), claims for injuries to
16 water rights, claims for loss or deprivation of
17 use of water rights, and claims for failure to ac-
18 quire or develop water rights for lands of the
19 Tribe from time immemorial to the date of rati-
20 fication of the Compact by Congress.

21 (B) Any and all claims arising out of the
22 negotiation of the Compact and the settlement
23 authorized by this Act.

1 (3) SETOFFS.—In the event the waiver and re-
2 lease do not become effective as set forth in para-
3 graph (1)—

4 (A) the United States shall be entitled to
5 setoff against any claim for damages asserted
6 by the Tribe against the United States, any
7 funds transferred to the Tribe pursuant to sec-
8 tion 104, and any interest accrued thereon up
9 to the date of setoff; and

10 (B) the United States shall retain any
11 other claims or defenses not waived in this Act
12 or in the Compact as modified by this Act.

13 (d) OTHER TRIBES NOT ADVERSELY AFFECTED.—
14 Nothing in this Act is intended to quantify or otherwise
15 adversely affect the land and water rights, or claims or
16 entitlements to land or water of an Indian tribe other than
17 the Chippewa Cree Tribe.

18 (e) ENVIRONMENTAL COMPLIANCE.—In imple-
19 menting the Compact, the Secretary shall comply with all
20 aspects of the National Environmental Policy Act of 1969
21 (42 U.S.C. 4321 et seq.), the Endangered Species Act of
22 1973 (16 U.S.C. 1531 et seq.), and all other applicable
23 environmental Acts and regulations.

24 (f) EXECUTION OF COMPACT.—The execution of the
25 Compact by the Secretary as provided for in this Act shall

1 not constitute a major Federal action under the National
 2 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
 3 seq.). The Secretary is directed to carry out all necessary
 4 environmental compliance required by Federal law in im-
 5 plementing the Compact.

6 (g) CONGRESSIONAL INTENT.—Nothing in this Act
 7 is intended to prohibit the Tribe from seeking additional
 8 authorization or appropriation of funds for tribal pro-
 9 grams or purposes.

10 (h) ACT NOT PRECEDENTIAL.—Nothing in this Act
 11 shall be construed or interpreted as a precedent for the
 12 litigation of reserved water rights or the interpretation or
 13 administration of future water settlement Acts.

14 **TITLE I—CHIPPEWA CREE TRIBE**
 15 **OF THE ROCKY BOY’S RES-**
 16 **ERVATION INDIAN RESERVED**
 17 **WATER RIGHTS SETTLEMENT**

18 **SEC. 101. RATIFICATION OF COMPACT AND ENTRY OF DE-**
 19 **CREE.**

20 (a) WATER RIGHTS COMPACT APPROVED.—Except
 21 as modified by this Act, and to the extent the Compact
 22 does not conflict with this Act—

23 (1) the Compact, entered into by the Chippewa
 24 Cree Tribe of the Rocky Boy’s Reservation and the

1 State of Montana on April 14, 1997, is hereby ap-
2 proved, ratified, and confirmed; and

3 (2) the Secretary shall—

4 (A) execute and implement the Compact
5 together with any amendments agreed to by the
6 parties or necessary to bring the Compact into
7 conformity with this Act; and

8 (B) take such other actions as are nec-
9 essary to implement the Compact.

10 (b) APPROVAL OF DECREE.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of enactment of this Act, the United
13 States, the Tribe, or the State of Montana shall pe-
14 tition the Montana Water Court, individually or
15 jointly, to enter and approve the decree agreed to by
16 the United States, the Tribe, and the State of Mon-
17 tana attached as Appendix 1 to the Compact, or any
18 amended version thereof agreed to by the United
19 States, the Tribe, and the State of Montana.

20 (2) RESORT TO THE FEDERAL DISTRICT
21 COURT.—Under the circumstances set forth in Arti-
22 cle VII.B.4 of the Compact, one or more parties may
23 file an appropriate motion (as provided in that arti-
24 cle) in the United States district court of appro-
25 priate jurisdiction.

1 (3) EFFECT OF FAILURE OF APPROVAL TO BE-
 2 COME FINAL.—In the event the approval by the ap-
 3 propriate court, including any direct appeal, does
 4 not become final within 3 years after the filing of
 5 the decree, or the decree is approved but is subse-
 6 quently set aside by the appropriate court—

7 (A) the approval, ratification, and con-
 8 firmation of the Compact by the United States
 9 shall be null and void; and

10 (B) except as provided in sections
 11 105(e)(1), 5(a), and 5(c)(3), this Act shall be
 12 of no further force and effect.

13 **SEC. 102. USE AND TRANSFER OF THE TRIBAL WATER**
 14 **RIGHT.**

15 (a) ADMINISTRATION AND ENFORCEMENT.—As pro-
 16 vided in the Compact, until the adoption and approval of
 17 a tribal water code by the Tribe, the Secretary shall ad-
 18 minister and enforce the Tribal Water Right.

19 (b) TRIBAL MEMBER ENTITLEMENT.—

20 (1) IN GENERAL.—Any entitlement to Federal
 21 Indian reserved water of any tribal member shall be
 22 satisfied solely from the water secured to the Tribe
 23 by the Compact and shall be governed by the terms
 24 and conditions of the Compact.

1 (2) ADMINISTRATION.—An entitlement de-
2 scribed in paragraph (1) shall be administered by
3 the Tribe pursuant to a tribal water code developed
4 and adopted pursuant to Article IV.A.2 of the Com-
5 pact, or by the Secretary pending the adoption and
6 approval of the tribal water code.

7 (c) TEMPORARY TRANSFER OF TRIBAL WATER
8 RIGHT.—Notwithstanding any other provision of statutory
9 or common law, the Tribe may, with the approval of the
10 Secretary and subject to the limitations and conditions set
11 forth in the Compact, including limitation on transfer of
12 any portion of the Tribal Water Right to within the Mis-
13 souri River Basin, enter into a service contract, lease, ex-
14 change, or other agreement providing for the temporary
15 delivery, use, or transfer of the water rights confirmed to
16 the Tribe in the Compact, except that no service contract,
17 lease, exchange, or other agreement entered into under
18 this subsection may permanently alienate any portion of
19 the Tribal Water Right.

20 **SEC. 103. ON-RESERVATION WATER RESOURCES DEVELOP-**
21 **MENT.**

22 (a) WATER DEVELOPMENT PROJECTS.—The Sec-
23 retary, through the Bureau of Reclamation, is authorized
24 and directed to plan, design, and construct, or to provide,
25 pursuant to subsection (b), for the planning, design, and

1 construction of the following water development projects
2 on the Rocky Boy's Reservation:

3 (1) Bonneau Dam and Reservoir Enlargement.

4 (2) East Fork of Beaver Creek Dam Repair
5 and Enlargement.

6 (3) Brown's Dam Enlargement.

7 (4) Towe Ponds' Enlargement.

8 (5) Such other water development projects as
9 the Tribe shall from time to time consider appro-
10 priate.

11 (b) IMPLEMENTATION AGREEMENT.—The Secretary,
12 at the request of the Tribe, shall enter into an agreement,
13 or, if appropriate, renegotiate an existing agreement, with
14 the Tribe to implement the provisions of this Act through
15 the Tribe's annual funding agreement entered into under
16 the self-governance program under title IV of the Indian
17 Self-Determination and Education Assistance Act (25
18 U.S.C. 458aa et seq.) by which the Tribe shall plan, de-
19 sign, and construct any or all of the projects authorized
20 by this section.

21 (c) BUREAU OF RECLAMATION PROJECT ADMINIS-
22 TRATION.—

23 (1) IN GENERAL.—Congress finds that the Sec-
24 retary, through the Bureau of Reclamation, has en-
25 tered into an agreement with the Tribe, pursuant to

1 title IV of the Indian Self-Determination and Edu-
2 cation Assistance Act (25 U.S.C. 458aa et seq.)—

3 (A) defining and limiting the role of the
4 Bureau of Reclamation in its administration of
5 the projects authorized in subsection (a);

6 (B) establishing the standards upon which
7 the projects will be constructed; and

8 (C) for other purposes necessary to imple-
9 ment this section.

10 (2) AGREEMENT.—The agreement referred to
11 in paragraph (1) shall become effective when the
12 Tribe exercises its right under subsection (b).

13 **SEC. 104. CHIPPEWA CREE INDIAN RESERVED WATER**
14 **RIGHTS SETTLEMENT TRUST FUND.**

15 (a) ESTABLISHMENT OF TRUST FUND.—

16 (1) IN GENERAL.—

17 (A) ESTABLISHMENT.—There is hereby es-
18 tablished in the Treasury of the United States
19 a trust fund for the Chippewa Cree Tribe of the
20 Rocky Boy's Reservation to be known as the
21 "Chippewa Cree Indian Reserved Water Rights
22 Settlement Trust Fund".

23 (B) AVAILABILITY OF AMOUNTS IN
24 FUND.—

1 (i) IN GENERAL.—Amounts in the
2 Fund shall be available to the Secretary
3 for management and investment on behalf
4 of the Tribe and distribution to the Tribe
5 in accordance with this Act.

6 (ii) AVAILABILITY.—Funds made
7 available from the Fund under this section
8 shall be available without fiscal year limita-
9 tion.

10 (2) MANAGEMENT OF FUND.—The Secretary
11 shall deposit and manage the principal and interest
12 in the Fund in a manner consistent with subsection
13 (b) and other applicable provisions of this Act.

14 (3) CONTENTS OF FUND.—The Fund shall con-
15 sist of the amounts authorized to be appropriated to
16 the Fund under section 105(a) and such other
17 amounts as may be transferred or credited to the
18 Fund.

19 (4) WITHDRAWAL.—The Tribe, with the ap-
20 proval of the Secretary, may withdraw the Fund and
21 deposit it in a mutually agreed upon private finan-
22 cial institution. That withdrawal shall be made pur-
23 suant to the American Indian Trust Fund Manage-
24 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

1 (5) ACCOUNTS.—The Secretary of the Interior
2 shall establish the following accounts in the Fund
3 and shall allocate appropriations to the various ac-
4 counts as required in this Act:

5 (A) The Tribal Compact Administration
6 Account.

7 (B) The Economic Development Account.

8 (C) The Future Water Supply Facilities
9 Account.

10 (b) FUND MANAGEMENT.—

11 (1) IN GENERAL.—

12 (A) AMOUNTS IN FUND.—The Fund shall
13 consist of such amounts as are appropriated to
14 the Fund and allocated to the accounts of the
15 Fund by the Secretary as provided in this Act
16 and in accordance with the authorizations for
17 appropriations in paragraphs (1), (2), and (3)
18 of section 105(a), together with all interest that
19 accrues in the Fund.

20 (B) MANAGEMENT BY SECRETARY.—The
21 Secretary shall manage the Fund, make invest-
22 ments from the Fund, and make available funds
23 from the Fund for distribution to the Tribe in
24 a manner consistent with the American Indian

1 Trust Fund Management Reform Act of 1994
2 (25 U.S.C. 4001 et seq.).

3 (2) TRIBAL MANAGEMENT.—

4 (A) IN GENERAL.—If the Tribe exercises
5 its right pursuant to subsection (a)(4) to with-
6 draw the Fund and deposit it in a private fi-
7 nancial institution, except as provided in the
8 withdrawal plan, neither the Secretary nor the
9 Secretary of the Treasury shall retain any over-
10 sight over or liability for the accounting, dis-
11 bursement, or investment of the funds.

12 (B) WITHDRAWAL PLAN.—The withdrawal
13 plan shall provide for—

14 (i) the creation of accounts and allo-
15 cation to accounts in a fund established
16 under the plan in a manner consistent with
17 subsection (a); and

18 (ii) the appropriate terms and condi-
19 tions, if any, on expenditures from the
20 Fund (in addition to the requirements of
21 the plans set forth in paragraphs (2) and
22 (3) of subsection (c)).

23 (c) USE OF FUND.—The Tribe shall use the Fund
24 to fulfill the purposes of this Act, subject to the following
25 restrictions on expenditures:

1 (1) Except for \$400,000 necessary for capital
2 expenditures in connection with Tribal Compact Ad-
3 ministration, only interest accrued on the Tribal
4 Compact Administration Account referred to in sub-
5 section (a)(5)(A) shall be available to satisfy the
6 Tribe's obligations for Tribal Compact Administra-
7 tion under the provisions of the Compact.

8 (2) Both principal and accrued interest on the
9 Economic Development Account referred to in sub-
10 section (a)(5)(B) shall be available to the Tribe for
11 expenditure pursuant to an economic development
12 plan approved by the Secretary.

13 (3) Both principal and accrued interest on the
14 Future Water Supply Facilities Account referred to
15 in subsection (a)(5)(C) shall be available to the
16 Tribe for expenditure pursuant to a water supply
17 plan approved by the Secretary.

18 (d) INVESTMENT OF FUND.—

19 (1) IN GENERAL.—

20 (A) APPLICABLE LAWS.—The Secretary
21 shall invest amounts in the Fund in accordance
22 with—

23 (i) the Act of April 1, 1880 (21 Stat.
24 70, chapter 41; 25 U.S.C. 161);

1 (ii) the first section of the Act entitled
2 “An Act to authorize the payment of inter-
3 est of certain funds held in trust by the
4 United States for Indian tribes”, approved
5 February 12, 1929 (25 U.S.C. 161a); and
6 (iii) the first section of the Act enti-
7 tled “An Act to authorize the deposit and
8 investment of Indian funds”, approved
9 June 24, 1938 (25 U.S.C. 162a).

10 (B) CREDITING OF AMOUNTS TO THE
11 FUND.—The interest on, and the proceeds from
12 the sale or redemption of, any obligations of the
13 United States held in the Fund shall be cred-
14 ited to and form part of the Fund. The Sec-
15 retary of the Treasury shall credit to each of
16 the accounts contained in the Fund a propor-
17 tionate amount of that interest and proceeds.

18 (2) CERTAIN WITHDRAWN FUNDS.—

19 (A) IN GENERAL.—Amounts withdrawn
20 from the Fund and deposited in a private finan-
21 cial institution pursuant to a withdrawal plan
22 approved by the Secretary under the American
23 Indian Trust Fund Management Reform Act of
24 1994 (25 U.S.C. 4001 et seq.) shall be invested
25 by an appropriate official under that plan.

1 (B) DEPOSIT OF INTEREST AND PRO-
2 CEEDS.—The interest on, and the proceeds
3 from the sale or redemption of, any obligations
4 held under this paragraph shall be deposited in
5 the private financial institution referred to in
6 subparagraph (A) in the fund established pur-
7 suant to the withdrawal plan referred to in that
8 subparagraph. The appropriate official shall
9 credit to each of the accounts contained in that
10 fund a proportionate amount of that interest
11 and proceeds.

12 (e) AGREEMENT REGARDING FUND EXPENDI-
13 TURES.—If the Tribe does not exercise its right under
14 subsection (a)(4) to withdraw the funds in the Fund and
15 transfer those funds to a private financial institution, the
16 Secretary shall enter into an agreement with the Tribe
17 providing for appropriate terms and conditions, if any, on
18 expenditures from the Fund in addition to the plans set
19 forth in paragraphs (2) and (3) of subsection (c).

20 (f) PER CAPITA DISTRIBUTIONS PROHIBITED.—No
21 part of the Fund shall be distributed on a per capita basis
22 to members of the Tribe.

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) CHIPPEWA CREE FUND.—There is authorized to
3 be appropriated for the Fund, \$21,000,000 to be allocated
4 by the Secretary as follows:

5 (1) TRIBAL COMPACT ADMINISTRATION AC-
6 COUNT.—For Tribal Compact Administration as-
7 sumed by the Tribe under the Compact and this Act,
8 \$3,000,000 is authorized to be appropriated for fis-
9 cal year 2000.

10 (2) ECONOMIC DEVELOPMENT ACCOUNT.—For
11 tribal economic development, \$3,000,000 is author-
12 ized to be appropriated for fiscal year 2000.

13 (3) FUTURE WATER SUPPLY FACILITIES AC-
14 COUNT.—For the total Federal contribution to the
15 planning, design, construction, operation, mainte-
16 nance, and rehabilitation of a future water supply
17 system for the Reservation, there are authorized to
18 be appropriated—

19 (A) \$2,000,000 for fiscal year 2000;

20 (B) \$8,000,000 for fiscal year 2001; and

21 (C) \$5,000,000 for fiscal year 2002.

22 (b) ON-RESERVATION WATER DEVELOPMENT.—

23 (1) IN GENERAL.—There are authorized to be
24 appropriated to the Department of the Interior, for
25 the Bureau of Reclamation, for the construction of

1 the on-Reservation water development projects au-
2 thorized by section 103—

3 (A) \$13,000,000 for fiscal year 2000, for
4 the planning, design, and construction of the
5 Bonneau Dam Enlargement, for the develop-
6 ment of additional capacity in Bonneau Res-
7 ervoir for storage of water secured to the Tribe
8 under the Compact;

9 (B) \$8,000,000 for fiscal year 2001, for
10 the planning, design, and construction of the
11 East Fork Dam and Reservoir enlargement, of
12 the Brown's Dam and Reservoir enlargement,
13 and of the Towe Ponds enlargement of which—

14 (i) \$4,000,000 shall be used for the
15 East Fork Dam and Reservoir enlarge-
16 ment;

17 (ii) \$2,000,000 shall be used for the
18 Brown's Dam and Reservoir enlargement;
19 and

20 (iii) \$2,000,000 shall be used for the
21 Towe Ponds enlargement; and

22 (C) \$3,000,000 for fiscal year 2002, for
23 the planning, design, and construction of such
24 other water resource developments as the Tribe,
25 with the approval of the Secretary, from time to

1 time may consider appropriate or for the com-
2 pletion of the four projects enumerated in sub-
3 paragraphs (A) and (B) of paragraph (1).

4 (2) UNEXPENDED BALANCES.—Any unex-
5 pended balance in the funds authorized to be appro-
6 priated under subparagraph (A) or (B) of paragraph
7 (1), after substantial completion of all of the
8 projects enumerated in paragraphs (1) through (4)
9 of section 103(a)—

10 (A) shall be available to the Tribe first for
11 completion of the enumerated projects; and

12 (B) then for other water resource develop-
13 ment projects on the Reservation.

14 (c) ADMINISTRATION COSTS.—There is authorized to
15 be appropriated to the Department of the Interior, for the
16 Bureau of Reclamation, \$1,000,000 for fiscal year 2000,
17 for the costs of administration of the Bureau of Reclama-
18 tion under this Act, except that—

19 (1) if those costs exceed \$1,000,000, the Bu-
20 reau of Reclamation may use funds authorized for
21 appropriation under subsection (b) for costs; and

22 (2) the Bureau of Reclamation shall exercise its
23 best efforts to minimize those costs to avoid expendi-
24 tures for the costs of administration under this Act
25 that exceed a total of \$1,000,000.

1 (d) AVAILABILITY OF FUNDS.—

2 (1) IN GENERAL.—The amounts authorized to
3 be appropriated to the Fund and allocated to its ac-
4 counts pursuant to subsection (a) shall be deposited
5 into the Fund and allocated immediately on appro-
6 priation.

7 (2) INVESTMENTS.—Investments may be made
8 from the Fund pursuant to section 104(d).

9 (3) AVAILABILITY OF CERTAIN MONEYS.—The
10 amounts authorized to be appropriated in subsection
11 (a)(1) shall be available for use immediately upon
12 appropriation in accordance with subsection
13 104(c)(1).

14 (4) LIMITATION.—Those moneys allocated by
15 the Secretary to accounts in the Fund or in a fund
16 established under section 104(a)(4) shall draw inter-
17 est consistent with section 104(d), but the moneys
18 authorized to be appropriated under subsection (b)
19 and paragraphs (2) and (3) of subsection (a) shall
20 not be available for expenditure until the require-
21 ments of section 101(b) have been met so that the
22 decree has become final and the Tribe has executed
23 the waiver and release required under section 5(c).

24 (e) RETURN OF FUNDS TO THE TREASURY—

1 (1) IN GENERAL.—In the event that the ap-
2 proval, ratification, and confirmation of the Compact
3 by the United States becomes null and void under
4 section 101(b), all unexpended funds appropriated
5 under the authority of this Act together with all in-
6 terest earned on such funds, notwithstanding wheth-
7 er the funds are held by the Tribe, a private institu-
8 tion, or the Secretary, shall revert to the general
9 fund of the Treasury 12 months after the expiration
10 of the deadline established in section 101(b).

11 (2) INCLUSION IN AGREEMENTS AND PLAN.—
12 The requirements in paragraph (1) shall be included
13 in all annual funding agreements entered into under
14 the self-governance program under title IV of the In-
15 dian Self-Determination and Education Assistance
16 Act (25 U.S.C. 458aa et seq.), withdrawal plans,
17 withdrawal agreements, or any other agreements for
18 withdrawal or transfer of the funds to the Tribe or
19 a private financial institution under this Act.

20 (f) WITHOUT FISCAL YEAR LIMITATION.—All money
21 appropriated pursuant to authorizations under this title
22 shall be available without fiscal year limitation.

1 **SEC. 106. STATE CONTRIBUTIONS TO SETTLEMENT.**

2 Consistent with Articles VI.C.2 and C.3 of the Com-
3 pact, the State contribution to settlement shall be as fol-
4 lows:

5 (1) The contribution of \$150,000 appropriated
6 by Montana House Bill 6 of the 55th Legislative
7 Session (1997) shall be used for the following pur-
8 poses:

9 (A) Water quality discharge monitoring
10 wells and monitoring program.

11 (B) A diversion structure on Big Sandy
12 Creek.

13 (C) A conveyance structure on Box Elder
14 Creek.

15 (D) The purchase of contract water from
16 Lower Beaver Creek Reservoir.

17 (2) Subject to the availability of funds, the
18 State shall provide services valued at \$400,000 for
19 administration required by the Compact and for
20 water quality sampling required by the Compact.

21 **TITLE II—TIBER RESERVOIR AL-**
22 **LOCATION AND FEASIBILITY**
23 **STUDIES AUTHORIZATION**

24 **SEC. 201. TIBER RESERVOIR.**

25 (a) ALLOCATION OF WATER TO THE TRIBE.—

1 (1) IN GENERAL.—The Secretary shall perma-
2 nently allocate to the Tribe, without cost to the
3 Tribe, 10,000 acre-feet per year of stored water
4 from the water right of the Bureau of Reclamation
5 in Lake Elwell, Lower Marias Unit, Upper Missouri
6 Division, Pick-Sloan Missouri Basin Program, Mon-
7 tana, measured at the outlet works of the dam or at
8 the diversion point from the reservoir. The allocation
9 shall become effective when the decree referred to in
10 section 101(b) has become final in accordance with
11 that section. The allocation shall be part of the Trib-
12 al Water Right and subject to the terms of this Act.

13 (2) AGREEMENT.—The Secretary shall enter
14 into an agreement with the Tribe setting forth the
15 terms of the allocation and providing for the Tribe's
16 use or temporary transfer of water stored in Lake
17 Elwell, subject to the terms and conditions of the
18 Compact and this Act.

19 (3) PRIOR RESERVED WATER RIGHTS.—The al-
20 location provided in this section shall be subject to
21 the prior reserved water rights, if any, of any Indian
22 tribe, or person claiming water through any Indian
23 tribe.

24 (b) USE AND TEMPORARY TRANSFER OF ALLOCA-
25 TION.—

1 (1) IN GENERAL.—Subject to the limitations
2 and conditions set forth in the Compact and this
3 Act, the Tribe shall have the right to devote the
4 water allocated by this section to any use, including
5 agricultural, municipal, commercial, industrial, min-
6 ing, or recreational uses, within or outside the Rocky
7 Boy’s Reservation.

8 (2) CONTRACTS AND AGREEMENTS.—Notwith-
9 standing any other provision of statutory or common
10 law, the Tribe may, with the approval of the Sec-
11 retary and subject to the limitations and conditions
12 set forth in the Compact, enter into a service con-
13 tract, lease, exchange, or other agreement providing
14 for the temporary delivery, use, or transfer of the
15 water allocated by this section, except that no such
16 service contract, lease, exchange, or other agreement
17 may permanently alienate any portion of the tribal
18 allocation.

19 (c) REMAINING STORAGE.—The United States shall
20 retain the right to use for any authorized purpose, any
21 and all storage remaining in Lake Elwell after the alloca-
22 tion made to the Tribe in subsection 201(a).

23 (d) WATER TRANSPORT OBLIGATION; DEVELOP-
24 MENT AND DELIVERY COSTS.—The United States shall
25 have no responsibility or obligation to provide any facility

1 for the transport of the water allocated by this section to
 2 the Rocky Boy's Reservation or to any other location. Ex-
 3 cept for the contribution set forth in subsection 105(a)(3),
 4 the cost of developing and delivering the water allocated
 5 by this title or any other supplemental water to the Rocky
 6 Boy's Reservation shall not be borne by the United States.

7 (e) SECTION NOT PRECEDENTIAL.—The provisions
 8 of this section regarding the allocation of water resources
 9 from the Tiber Reservoir to the Tribe shall not be con-
 10 strued as precedent in the litigation or settlement of any
 11 other Indian water right claims.

12 **SEC. 202. MUNICIPAL, RURAL, AND INDUSTRIAL FEASI-**
 13 **BILITY STUDY.**

14 (a) AUTHORIZATION.—

15 (1) IN GENERAL.—

16 (A) STUDY.—The Secretary, through the
 17 Bureau of Reclamation, shall perform an MR&I
 18 feasibility study of water and related resources
 19 in north central Montana to evaluate alter-
 20 natives for a municipal, rural, and industrial
 21 supply for the Rocky Boy's Reservation.

22 (B) USE OF FUNDS MADE AVAILABLE FOR
 23 FISCAL YEAR 1999.—The authority under sub-
 24 paragraph (A) shall be deemed to apply to
 25 MR&I feasibility study activities for which

1 funds were made available by appropriations for
2 fiscal year 1999.

3 (2) CONTENTS OF STUDY.—The MR&I feasi-
4 bility study shall include the feasibility of releasing
5 the Tribe’s Tiber allocation as provided in section
6 201 into the Missouri River System for later diver-
7 sion to a treatment and delivery system for the
8 Rocky Boy’s Reservation.

9 (3) UTILIZATION OF EXISTING STUDIES.—The
10 MR&I feasibility study shall include utilization of ex-
11 isting Federal and non-Federal studies and shall be
12 planned and conducted in consultation with other
13 Federal agencies, the State of Montana, and the
14 Chippewa Cree Tribe.

15 (b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED
16 OFF-RESERVATION SYSTEM.—The United States, the
17 Chippewa Cree Tribe of the Rocky Boy’s Reservation, and
18 the State of Montana shall not be obligated to accept or
19 participate in any potential off-Reservation water supply
20 system identified in the MR&I feasibility study authorized
21 in subsection (a).

22 **SEC. 203. REGIONAL FEASIBILITY STUDY.**

23 (a) IN GENERAL.—

24 (1) STUDY.—The Secretary, through the Bu-
25 reau of Reclamation, shall conduct, pursuant to Rec-

1 lamation Law, a regional feasibility study (referred
2 to in this subsection as the “regional feasibility
3 study”) to evaluate water and related resources in
4 north central Montana in order to determine the
5 limitations of those resources and how those re-
6 sources can best be managed and developed to serve
7 the needs of the citizens of Montana.

8 (2) USE OF FUNDS MADE AVAILABLE FOR FIS-
9 CAL YEAR 1999.—The authority under paragraph (1)
10 shall be deemed to apply to regional feasibility study
11 activities for which funds were made available by ap-
12 propriations for fiscal year 1999.

13 (b) CONTENTS OF STUDY.—The regional feasibility
14 study shall—

15 (1) evaluate existing and potential water sup-
16 plies, uses, and management;

17 (2) identify major water-related issues, includ-
18 ing environmental, water supply, and economic
19 issues;

20 (3) evaluate opportunities to resolve the issues
21 referred to in paragraph (2); and

22 (4) evaluate options for implementation of reso-
23 lutions to the issues.

1 (c) REQUIREMENTS.—Because of the regional and
2 international impact of the regional feasibility study, the
3 study may not be segmented. The regional study shall—

4 (1) utilize, to the maximum extent possible, ex-
5 isting information; and

6 (2) be planned and conducted in consultation
7 with all affected interests, including interests in
8 Canada.

9 **SEC. 204. AUTHORIZATION OF APPROPRIATIONS FOR FEA-**
10 **SIBILITY STUDIES.**

11 (a) FISCAL YEAR 1999 APPROPRIATIONS.—Of the
12 amounts made available by appropriations for fiscal year
13 1999 for the Bureau of Reclamation, \$1,000,000 shall be
14 used for the purpose of commencing the MR&I feasibility
15 study under section 202 and the regional study under sec-
16 tion 203, of which—

17 (1) \$500,000 shall be used for the MR&I study
18 under section 202; and

19 (2) \$500,000 shall be used for the regional
20 study under section 203.

21 (b) FEASIBILITY STUDIES.—There is authorized to
22 be appropriated to the Department of the Interior, for the
23 Bureau of Reclamation, for the purpose of conducting the
24 MR&I feasibility study under section 202 and the regional

1 study under section 203, \$3,000,000 for fiscal year 2000,
2 of which—

3 (1) \$500,000 shall be used for the MR&I feasi-
4 bility study under section 202; and

5 (2) \$2,500,000 shall be used for the regional
6 study under section 203.

7 (c) WITHOUT FISCAL YEAR LIMITATION.—All money
8 appropriated pursuant to authorizations under this title
9 shall be available without fiscal year limitation.

10 (d) AVAILABILITY OF CERTAIN MONEYS.—The
11 amounts made available for use under subsection (a) shall
12 be deemed to have been available for use as of the date
13 on which those funds were appropriated. The amounts au-
14 thorized to be appropriated in subsection (b) shall be avail-
15 able for use immediately upon appropriation.

Passed the House of Representatives October 18,
1999.

Attest:

JEFF TRANDAHL,

Clerk.